

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 5/24/2019
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LENNY DYKSTRA,

Plaintiff,

-against-

6069321 CANADA, INC. and SCOTT
SATOV,

Defendants,

and

REBOUND MARKETING, LLC,

Nominal Defendant. :
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1:19-cv-688-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

Federal Rule of Civil Procedure 4(f)(2)(C)(ii) provides that, “unless prohibited by the foreign country’s law” a party may effect service outside the United States by “using any form of mail that the *clerk addresses and sends* to the individual and that requires a signed receipt.” (italics added).

Decisions by judges in this District have found service of process under Rule 4(f)(2)(C)(ii) defective when the service is effectuated through the mail by a party other than the Clerk of Court. *See, e.g., Ansell Healthcare, Inc. v. Maersk Line*, 545 F. Supp. 2d 339, 342 (S.D.N.Y. 2008); *Export-Import Bank of the United States v. Asia Pulp & Paper Co.*, No. 03 Civ. 8554, 2005 WL 1123755, at *2 (S.D.N.Y. May 11, 2005).

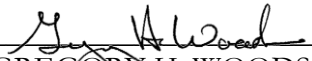
In this case, Plaintiff did not comply with Rule 4(f)(2)(C)(ii) because an employee of the law firm representing Plaintiff—not the Clerk of Court—initiated service upon Mr. Satov and 6069321 Canada, Inc. (the “Defendants”) via USPS First Class International Mail. *See* Dkt. Nos. 46, 48, 66. Accordingly, Plaintiff’s service on Mr. Satov and 6069321 Canada, Inc. was defective under Rule 4(f)(2)(C)(ii). Therefore, in response to Mr. Satov’s motion, the Court confirms that Plaintiff’s

method of service was defective.

The Clerk of Court is directed to terminate the motions pending at Dkt. Nos. 65 and 66.

SO ORDERED.

Dated: May 23, 2019
New York, New York



GREGORY H. WOODS
United States District Judge